



DATE: February 23, 2022

TO: Council Infrastructure Committee

FROM: Director of Public Works

SUBJECT: Review of Draft Traffic Impact Fee Recommendations

RECOMMENDATION

That the Council Infrastructure Committee (CIC) reviews and provides feedback and recommends approval of the Traffic Impact Fee program structure to Council.

SUMMARY

A traffic impact fee (TIF) is a one-time fee imposed on new development projects to help mitigate the cumulative transportation impacts of development growth. As importantly, a TIF will bring much-needed certainty to Hayward's development process at the onset of the application process.

TIFs imposed on new development are linked to the concept that traffic generated by the proposed development will cause a nearby traffic deficiency, such as an intersection exceeding a specific level of service or capacity. A TIF does not replace any transportation analysis requirements imposed by the California Environmental Quality Act (CEQA). Also, while a TIF addresses cumulative impacts of all future development projects, it does not address specific or direct impacts from a proposed development. As a result, in some cases, a Local Transportation Analysis (LTA) may still be necessary.

Traffic consultants TJKM prepared The Multimodal Improvement Plan and TIF Nexus Study (Attachment II) that identifies locations of future traffic deficiencies as a result of future development, develops mitigations to these deficiencies, calculates total cost of capital improvements required to implement the mitigations, and provides a calculated maximum allowable traffic fee that would be legally defensible based on projected cumulative traffic impact from different development types.

Economic consultants Community Attributes, Inc., (CAI) reviewed the Nexus Study and assisted the City in developing recommendations for adopting appropriate fees, below the maximum allowable, based on current economic conditions and development feasibility and to maintain competitive overall development fees when compared to surrounding jurisdictions.

Staff recommends the following:

1. Reduce fees for residential developments by 70% and non-residential developments by 30% below the maximum allowable TIF.
 - It was determined that these reductions ensure that the City maintains development feasibility while offering competitive rates with surrounding cities.
2. Postpone implementation of a TIF for multi-family, retail, and office developments.
 - These land uses were hit the hardest from the pandemic and are still recovering; additionally, CAI prepared a financial feasibility analysis that demonstrated that a traffic impact fee at this time may disincentivize development of these land uses in the City. As a result, it is recommended to allow more time for these types of development to recover from the pandemic and to re-evaluate their feasibility in several years.
3. Include an automatic annual construction inflation index adjustment.
 - The cost of construction materials normally increases annually due to inflation – an issue that contractors faced even prior to the pandemic. Building material supply chains have been interrupted and labor has become scarce increasing the magnitude of construction inflation costs due to the pandemic. It is typical practice for local jurisdictions to adjust fees to align with inflation related to construction.
4. Reevaluate TIF program after three years.
 - Three years seems like the appropriate amount of time to reevaluate the TIF program as to whether the postponement of the three land uses – multi-family, retail, and office – should continue. The maximum allowable TIF may also require adjusting due to changes in proposed improvements and traffic patterns that are expected to change in the upcoming years from employers allowing employees to telecommute.

A summary of staff recommendations are presented in the table below..

Land Use Category	Maximum Allowable	Reduction from Maximum Allowable	Recommended Fee	Feasibility	Postponement?
Single Family Residence / Unit	\$11,431	70%	\$3,429	Marginal	No
Multi-Family Residence / Unit	\$7,659	-	-	Marginal	Yes, for development feasibility purposes
Retail/ KSF*	\$19,203	-	-	Challenged	Yes, for development feasibility purposes
Office / KSF	\$16,232	-	-	Challenged	Yes, for development feasibility purposes
General Industrial / KSF	\$4,572	30%	\$3,201	Promising	No

Distribution or e-commerce / KSF	\$8,116	30%	\$5,681	Promising	No
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*ksf is one thousand square feet

BACKGROUND

The Mitigation Fee Act authorizes a local agency to establish, increase, or impose various fees as a condition of approval of a development project, if specified requirements are met. A TIF is a one-time fee imposed on new development projects to help mitigate the cumulative transportation impacts of development growth. As importantly, a TIF will bring much-needed certainty to the City's development process at the onset of the application process.

Unlike most Bay Area cities, the City does not have a TIF, or other private funding mechanism dedicated solely to transportation improvements. Hayward is the only city in Alameda County, besides Albany (population of less than 20,000 people) and Piedmont (population of less than 11,500 people) with no TIF, meaning that Hayward is left with the responsibility of mitigating future traffic impacts generated by developments.

TIFs imposed on new developments are linked to the concept that traffic generated by the proposed development will cause a nearby traffic deficiency, such as an intersection exceeding a specific level of service or capacity. A TIF does not replace any transportation analysis requirements imposed by the California Environmental Quality Act (CEQA) and while a TIF addresses cumulative impacts of all future development projects, it does not address specific or direct impacts from a proposed development. As a result, in some cases, a Local Transportation Analysis (LTA) may still be necessary.

On July 21, 2015, the City executed a Professional Services Agreement with Traffic Consultants TJKM to conduct the Multimodal Improvement Plan and TIF Nexus Study. TJKM prepared The Multimodal Improvement Plan and TIF Nexus Study (Attachment II) that identifies locations of future traffic deficiencies resulting from future development, develops mitigations to these deficiencies, calculates total cost of capital improvements required to implement the mitigations, and provides a calculated maximum allowable traffic fee that would be legally defensible based on projected cumulative traffic impacts from different development types.

A TIF should not be viewed as a deterrent to development activities. On October 20, 2020, four development experts presented a work session item to Council on *Covid-19 Trends and Impacts on the Real Estate Market*. Jason Ovadia, Industrial Development expert, states that TIFs are funding mechanisms cities can use to offset the transportation and infrastructure degradation from the significant increase in traffic generated by new industrial developments and provide for greater upfront certainty for developers in the development review process. A key factor that affects the feasibility of impact fees is the presence of a strong local economy and the financial feasibility of specific land uses. The supply and demand for developable land must be sufficient to absorb the added expense of impact fees.

To ensure that the City's fees are reasonable and would not adversely impact needed developments in the City, after the completion of the Nexus Study in Summer 2021, the City executed a professional services agreement with economic consultants Community Attributes,

Inc., (CAI) on October 7, 2021. CAI reviewed the Nexus Study and assisted the City in developing recommendations for adopting appropriate fee levels based on current development feasibility and on maintaining competitive overall development fees compared to surrounding jurisdictions.

The provisions of AB 602 regarding the calculation of an impact fee based on square footage, instead of per unit, of proposed residential development will apply to the TIF Nexus Study if the fee is not adopted by July 1, 2022. Many cities assess fees on a per-unit basis, which means a five-bedroom penthouse suite and a small studio apartment would be assessed the same impact fee, essentially penalizing the smaller, more naturally affordable, lower-impact housing projects. After July 1, 2022, Council would be required to make specific findings to justify not basing residential impact fees per square footage, as AB 602 requires, and justify continuing to charge residential impact fees per unit.

DISCUSSION

The TIF Nexus Study prepared by traffic consultants TJKM identifies locations of future traffic deficiencies generated by future development, develops mitigations to these deficiencies, calculates total cost of capital improvements required to implement the mitigations, and provides a calculated maximum allowable traffic fee that would be legally defensible based on projected cumulative traffic impact from different development types. The Nexus Study identifies maximum allowable traffic fees for eighteen different land use categories. CAI researched traffic and overall development impact fees from neighboring jurisdictions and provided staff with valuable information for determining the most appropriate recommended fee amount for the TIF. The number and type of land use categories for the TIF vary widely across jurisdictions. Based on review of neighboring jurisdictions, staff narrowed down the eighteen land use categories identified in the Nexus Study to the proposed recommended six land use categories: single-family residential, multi-family residential, retail, office, general industrial, and distribution/e-commerce.

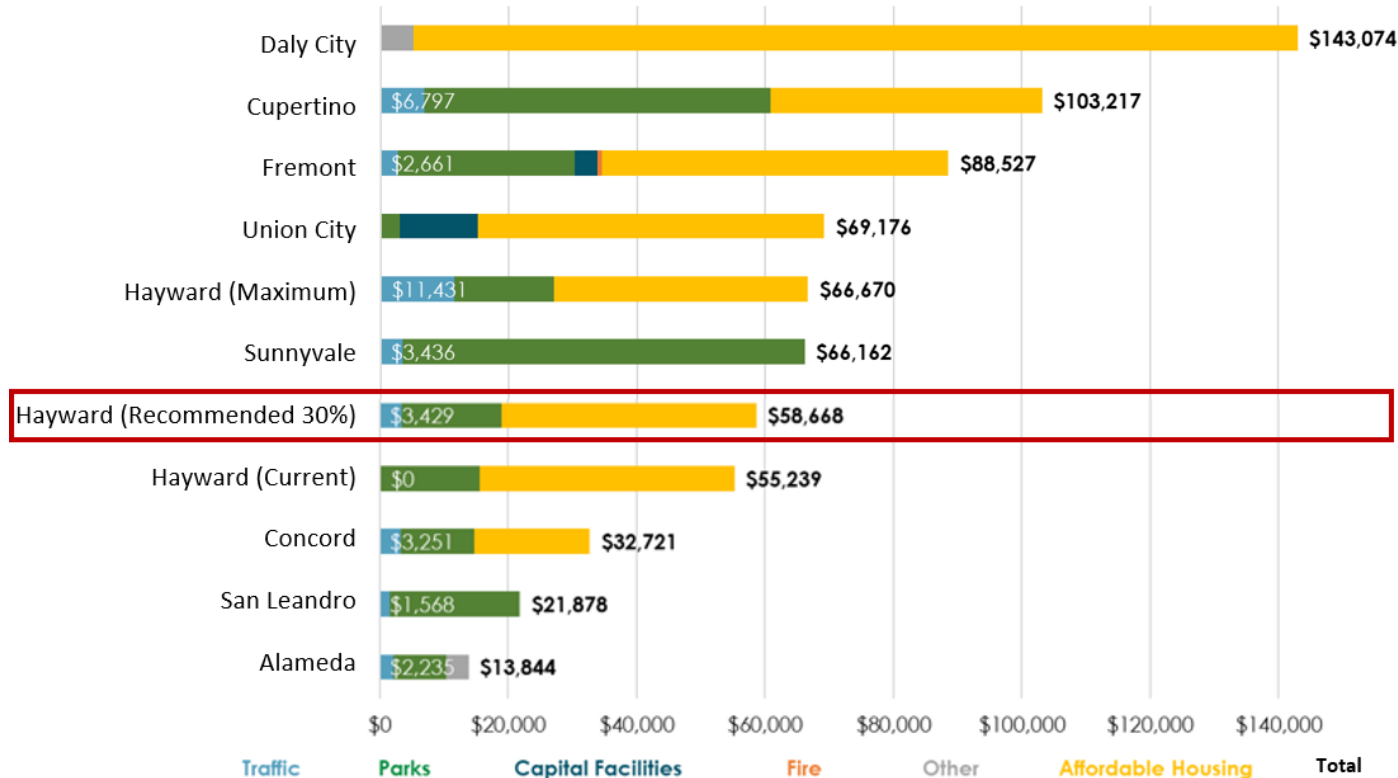
After determining Hayward's TIF land use categories, CAI studied the feasibility of these six development types. The findings and results of this feasibility study are summarized in Table 1.

Table 1. Development Feasibility Study

Land Use Category	Feasibility Findings	Result	Recommend Postponement?
Single-Family Residential	Despite strong sales prices, high development and land costs are challenges; some townhouse development, suggesting that deals are possible. Strong regional demand for housing creates opportunities for Hayward.	Marginal	No
Multi-Family Residential	Some multi-family development has occurred in recent years, though this product is challenged by lease rates that decreased during the pandemic and higher rates of vacancy and credit loss due in part to ongoing eviction moratoria. Given strong regional demand for housing and the prospect that lease rates rebound to pre-pandemic levels, the longer-term prospects for multi-family development are positive.	Marginal	Yes
Retail	Brick and mortar retail faces an uncertain future coming out of the pandemic and achievable lease rates in Hayward generally do not support new construction. Some retail anchors, such as CVS, have adapted in ways that make them more feasible. This trend also affects restaurants, though housing growth will support incremental additions to the retail and restaurant inventory.	Challenged	Yes
Office	The market for office in Hayward is weak and lease rates generally do not support new construction; to that extent that any demand for commercial office exists in Hayward, it is likely to be for medical office in or around the BART stations.	Challenged	Yes
General Industrial	Extremely strong regional demand and Hayward's central location support project feasibility and modeling shows positive residual land value	Promising	No
Distribution/E-commerce	Extremely strong regional demand and Hayward's central location support project feasibility and modeling shows positive residual land value	Promising	No

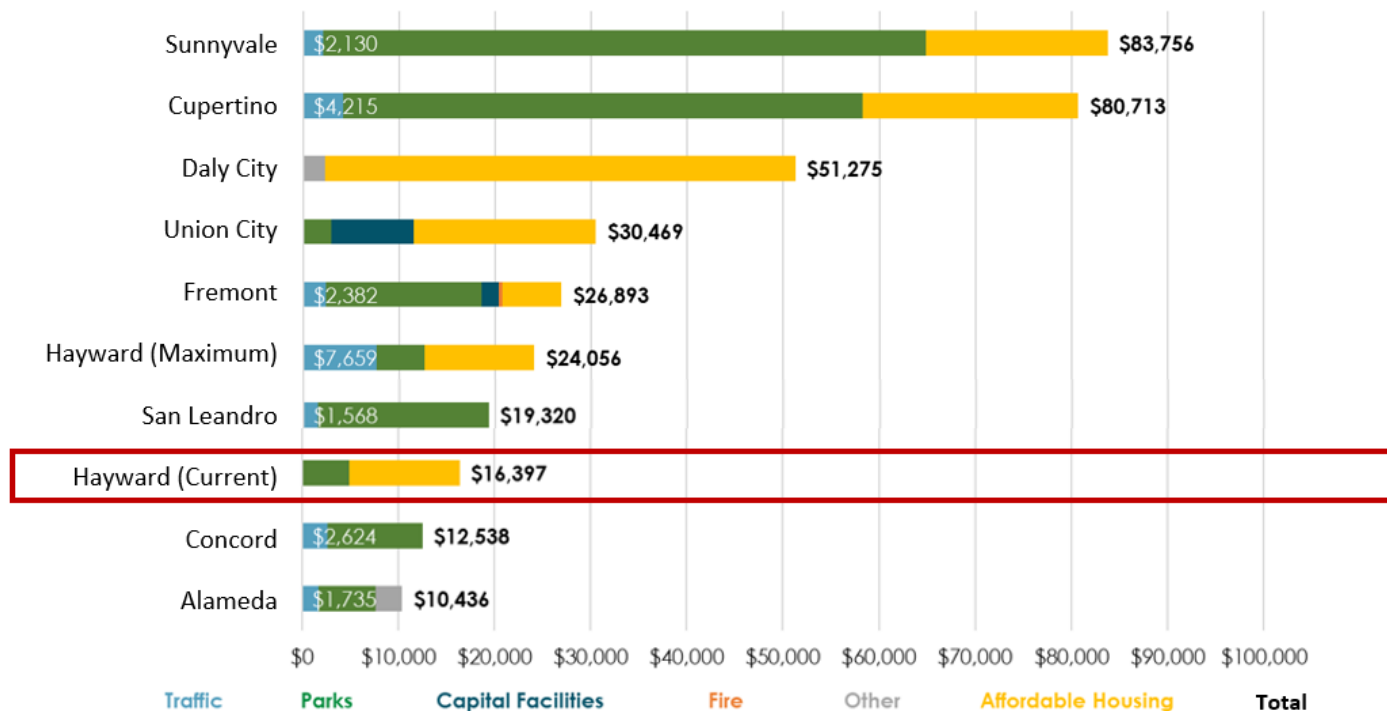
CAI compared traffic impact fees and total cumulative impact fees with selected neighboring cities that are similar in size and location. The following figures show the TIF and cumulative impact fee comparisons with the local cities of Alameda, Concord, Cupertino, Daly City, Fremont, San Leandro, Sunnyvale, and Union City, to Hayward's cumulative impact fee using the maximum allowable TIF, Hayward's cumulative impact fee using the recommended fee, and Hayward's current cumulative impact fee with no TIF.

Figure 1. Single-Family Residential Impact Fee Comparison



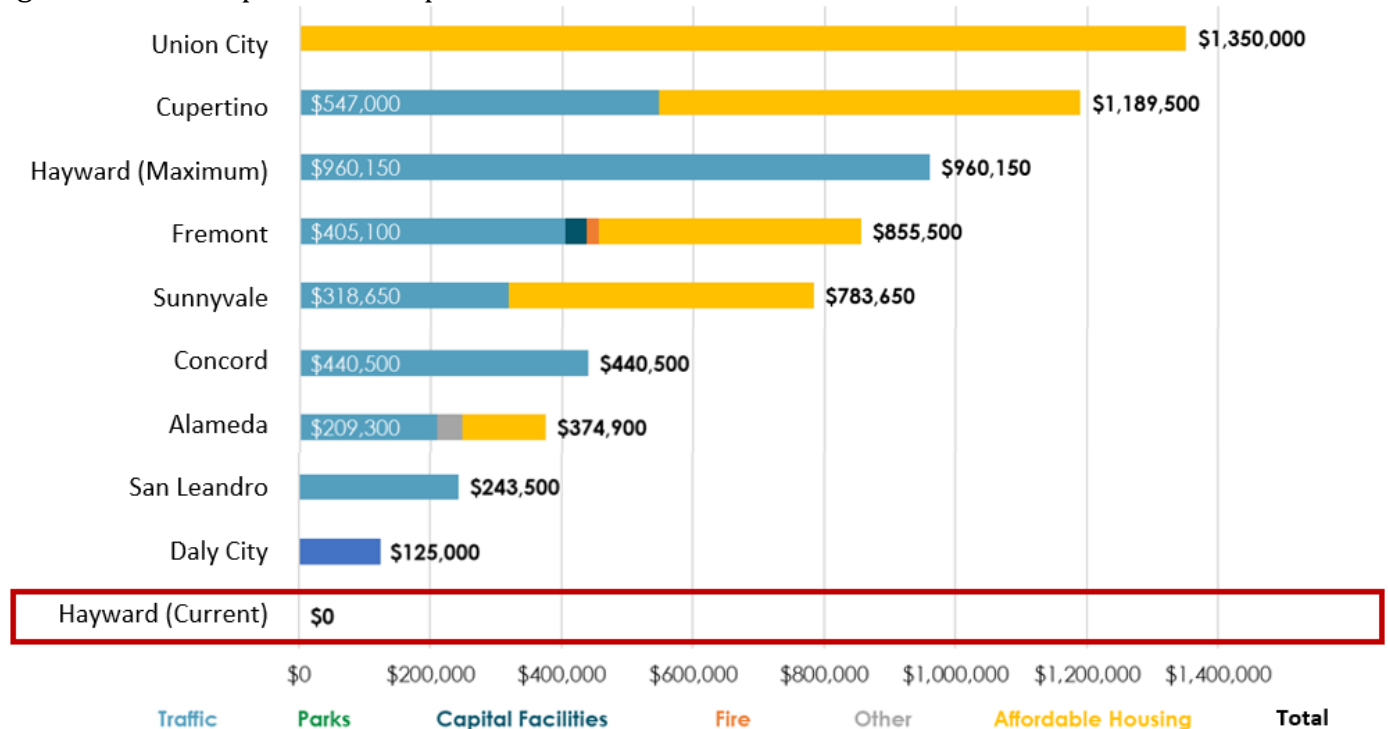
The cumulative impact fee comparison for single-family residential development is depicted in Figure 1 and ranks the fees from highest to lowest. For single-family residential development, Hayward’s cumulative impact fee using the maximum allowable TIF, the recommended fee of a 70% reduction, and Hayward’s current cumulative impact fee with no TIF rank fifth, seventh, and eighth out of twelve ranks, respectively, when compared to eight other jurisdictions. This seems appropriate given the “marginal” feasibility of this land use based on the CAI feasibility analysis.

Figure 2. Multi-Family Residential Impact Fee Comparison



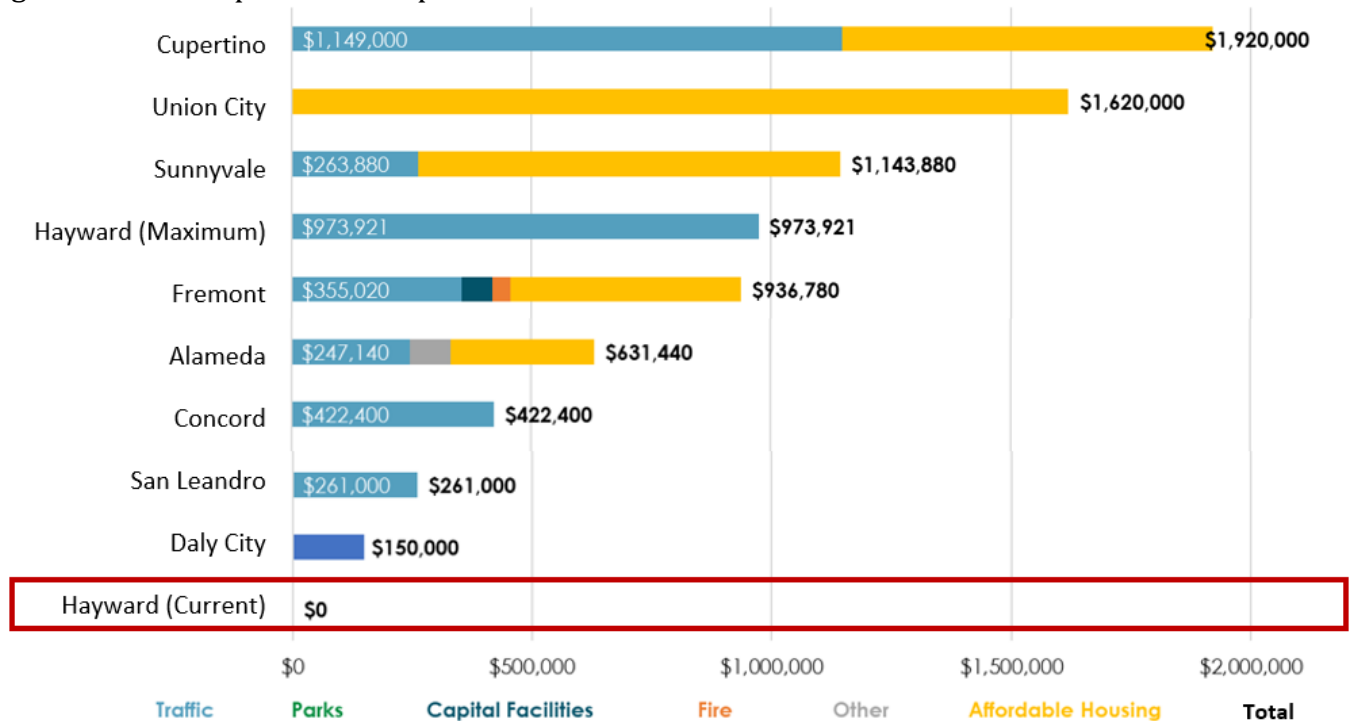
Staff recommends postponing a TIF for multi-family residential land use based on the feasibility challenges posed for this development type and this land use’s ongoing recovery from the economic impacts of the pandemic. Considering California’s housing crisis, it is in the City’s best interest to avoid disincentivizing high-density development and affordable housing at this time. For multi-family residential development, Hayward’s cumulative impact fee using the maximum allowable TIF and Hayward’s current and recommended cumulative impact fee with no TIF rank sixth and eighth highest out of twelve ranks, respectively, when compared to eight other jurisdictions.

Figure 3. Retail Impact Fee Comparison



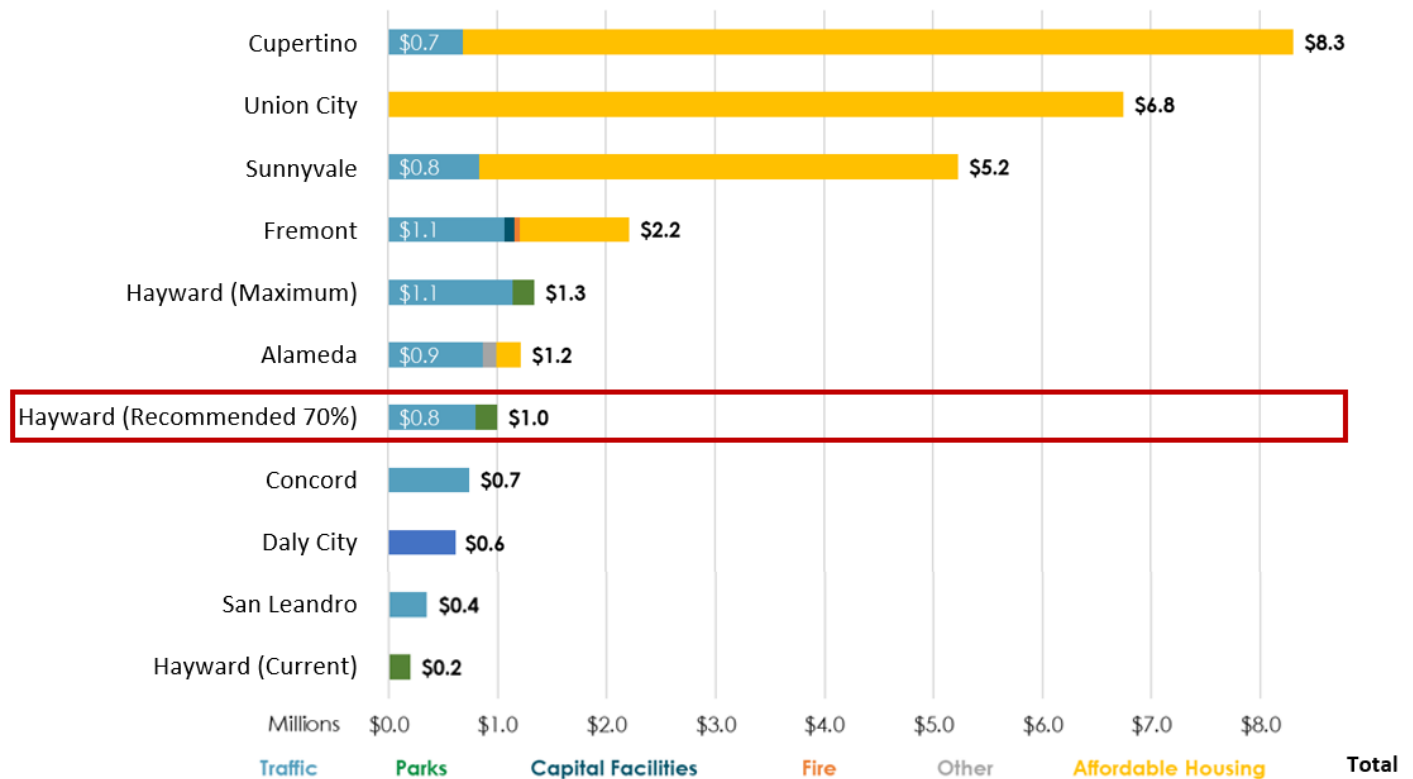
Retail has been one of the businesses hit hardest by pandemic restrictions. Reduced economic activity results in less demand for new commercial retail facilities, and ambiguity about future recovery further dampens investment. To allow more time for retail businesses to recover from the significant impacts of the pandemic, staff recommends postponing the TIF for retail development for three years until the TIF is reevaluated. For retail development, Hayward's cumulative impact fee using the maximum allowable TIF and Hayward's recommended and current cumulative impact fee with no TIF rank third and twelfth (last) highest out of twelve ranks, respectively, when compared to eight other jurisdictions.

Figure 4. Office Impact Fee Comparison



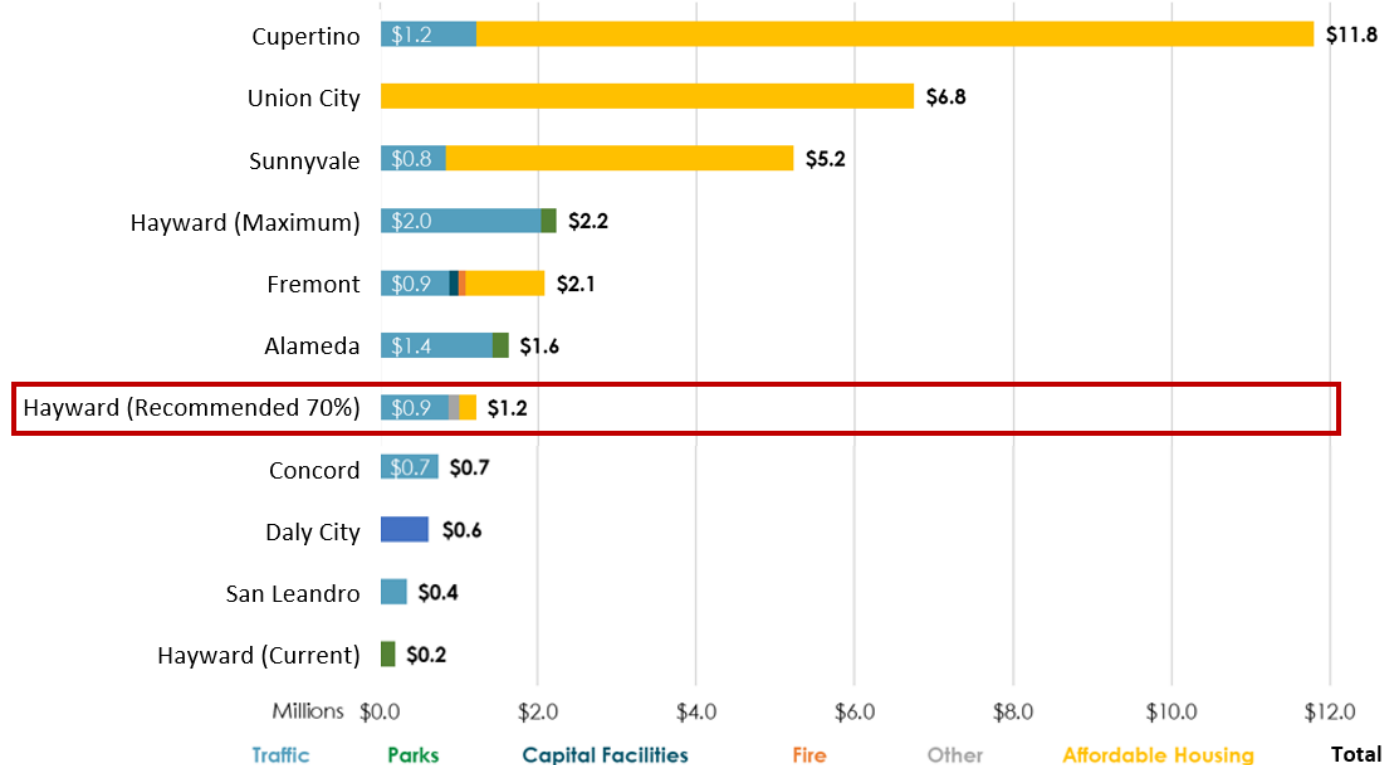
Like retail development, office development has been greatly impacted by pandemic restrictions. The first 16 months of the pandemic, non-essential employees were strictly ordered to telecommute for work resulting in a decrease in demand for office development. As restrictions were lifted, many employers continued to allow employees to telecommute for work either part-time or full-time. For these reasons, staff recommends postponing a TIF for three years to allow more time for the work force to stabilize. For office development, Hayward's cumulative impact fee using the maximum allowable TIF and Hayward's recommended and current cumulative impact fee with no TIF rank fourth and twelfth (last) highest out of twelve ranks, respectively, when compared to eight other jurisdictions.

Figure 5. General Industrial Impact Fee Comparison



Unlike residential, retail, and office development, the industrial economy has not experienced a decrease in demand. In fact, the pandemic restrictions have increased demand for general industrial development. Extremely strong regional demand and Hayward's central location support industrial development feasibility and modeling shows positive residual land value. For general industrial development, Hayward's cumulative impact fee using the maximum allowable TIF, Hayward's recommended traffic impact fee at a 30% reduction, and Hayward's current cumulative impact fee with no TIF rank fifth, seventh, and twelfth (last) highest out of twelve ranks, respectively, when compared to eight other jurisdictions.

Figure 6. Distribution/E-commerce Impact Fee Comparison



Similar to general industrial development, the distribution and e-commerce economy, such as an Amazon last-mile facility, has experienced a dramatic increase in demand. Extremely strong regional demand and Hayward's central location support industrial development feasibility and modeling shows positive residual land value. For distribution/e-commerce development, Hayward's cumulative impact fee using the maximum allowable TIF, Hayward's cumulative impact fee at a 30% reduction, and Hayward's current cumulative impact fee with no TIF rank fourth, sixth, and twelfth (last) highest out of 12 ranks, respectively, when compared to eight other jurisdictions.

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 - It was determined that these reductions ensure that the City maintains development feasibility while offering competitive rates with surrounding cities.
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 - These land uses were hit the hardest from the pandemic and are still recovering; additionally, CAI prepared a financial feasibility analysis that demonstrated that a traffic impact fee at this time may disincentivize development of these land uses in the City. As a result, it is recommended to allow more time for these types of development to recover from the pandemic and to re-evaluate their feasibility in

several years.

3. Include an automatic annual construction inflation index adjustment.
 - The cost of construction materials normally increases annually due to inflation – an issue that contractors faced even prior to the pandemic. Building materials supply chains have been interrupted and labor has become scarce increasing the magnitude of construction inflation costs due to the pandemic. It is typical practice for local jurisdictions to adjust fees to align with inflation related to construction.
4. Reevaluate TIF program after three years.
 - Three years seems like the appropriate amount of time to reevaluate the TIF program as to whether the postponement of the three land uses – multi-family, retail, and office – should continue. The maximum allowable TIF may also require adjusting due to changes in proposed improvements and traffic patterns that are expected to change in the upcoming years from employers allowing employees to telecommute.

A summary of staff recommendations is presented in Table 2 below.

Table 2. Staff Recommendations

Land Use Category	Maximum Allowable	Reduction from Maximum Allowable	Recommended Fee	Feasibility	Postponement?
Single Family Residence / Unit	\$11,431	70%	\$3,429	Marginal	No
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On February 9, 2022, staff held a Stakeholder Meeting to introduce the proposed recommended TIF and solicit feedback from the public. An article publicizing the event was published in The Stack and distributed to subscribers. Additionally, a targeted email with information on how to attend the event was sent to a distribution list of 420 recipients who are involved in some way with Hayward's development process.

The Stakeholder Meeting included less than 10 participants. Feedback received from attendee Zachariah Oquenda could be summarized as general support for the proposed TIF. Mr. Oquenda stated his appreciation for the reasonable fees and the presentation of the jurisdictional comparisons to understand how the implementation of a TIF will affect

Hayward's standing with other local cities. Additionally, Mr. Oquenda asked questions about the reduction of single-family residential fee and whether it should be increased.

An attendee who did not provide a name, provided a comment through the chat box suggesting that the funds collected from the new TIF should be used mostly for improvements to alternative modes of transportation, such as biking, walking, and transit. Staff responded stating that 82% of the TIF fund is dedicated solely to bike and pedestrian improvements and the remaining 18% of the TIF fund is dedicated to vehicular/transit improvements and traffic signal equipment upgrades and improvements that benefit all modes.

Additionally, staff is using the creation of a TIF as an opportunity to evaluate and streamline more comprehensively all of the existing traffic processes for entitlement applications. Developers seek to identify upfront as many costs and risks as possible related to their projects to maximize development feasibility and success. By creating a TIF and clearly identifying the type, cost, and duration of any other local transportation analysis that may be required at the time of permit application, developers will have greater certainty about project feasibility and be more likely to successfully entitle and build their projects. With the goal of minimizing uncertainty, staff is also preparing additional documents, such as a flow chart for determining which traffic analyses will be required for varying types of projects, a Frequently Asked Questions (FAQs) document, and links to easy-to-find resources and guidelines on the transportation webpage for public access at any time.

This CIC meeting is the second of a series of meetings related to the TIF as summarized:

1. February 9, 2022: Stakeholder Meeting to introduce the proposed TIF and solicit feedback from the business/broker/development communities.
2. February 23, 2022: Council Infrastructure Committee review and comment.
3. April 14, 2022: Planning Commission review and comment.
4. May 3, 2022: City Council consideration of recommended approval.

FISCAL IMPACT

A total budget of \$700,000 from the Transportation System Improvement Fund (Fund 460) has been allocated for the traffic consultant TJKM for the nexus study of the City's first TIF. The project breakdown is as follows:

<u>Project No.</u>	<u>Project Name</u>	<u>Project Total</u>
05705	Citywide Multi Modal Improvement Study	\$400,000
05711	Multi Modal Level of Service Study	\$100,000
05274	Traffic Impact Fee Study	\$200,000

Approximately \$27,500 is remaining of the \$700,000 contract.

A total budget of \$36,000 has been allocated for the economic consultant, CAI, for support in determining TIF policy recommendations that align with current economic and development activities within Hayward.

TIFs are another source of funds for needed improvements and are commonly viewed in terms of their revenue potential. TIFs are used to offset transportation infrastructure degradation from the significant increase in traffic generated by new developments. TIFs are used to help mitigate the cumulative transportation impacts of development growth, help maintain the City's transportation infrastructure, and not create a long-term liability for the City.

ECONOMIC IMPACT

A TIF will be valuable to the City in ensuring that future developers pay their fair share of needed mitigation measures to minimize future traffic impacts, such as addition of bicycle and pedestrian facilities, installation of traffic signals, efficient re-timing of signals, and the increase of traffic capacity.

Evaluations and studies have consistently shown that this type of funding mechanism increases job growth and revenues in the City. Impact fees have evolved as an element of a broader growth management strategy for cities experiencing strong development pressure. The objective is to encourage development to occur in areas within the City where public facilities have adequate capacity to serve the development. While some may view impact fees as a penalty for development in areas where there is insufficient capacity, the fee acts as an investment in the community, by spurring economic growth through the timely provision of sustainable infrastructure and the expansion of buildable land. Developments bring more jobs, sales tax revenue, and/or property tax revenue.

Without a traffic impact fee, developers must hire a traffic engineering consultant to prepare a study which includes predicting future traffic impacts, developing mitigations, and estimating costs of constructing the mitigations. The City reviews, comments, and uses the study to determine which mitigation projects will be conditions of approval for the development. TIFs streamline the development process by saving time and effort for both developers and City staff.

As cities continue to grapple with the problems of traffic congestion and limited public resources, cities will continue to view impact fees as another source of funds for needed improvements and are commonly viewed in terms of their revenue potential. Because several of the mitigation projects identified in the Multimodal Improvement Plan and Traffic Impact Fee Nexus Study are additions or enhancements of bicycle and pedestrian facilities, the City will become a more pedestrian- and bicycle-friendly community, thus creating positive economic benefits.

STRATEGIC ROADMAP

This agenda item supports the Strategic Priority of Improving Infrastructure. Specifically, this item relates to the implementation of the following project(s):

Project 3. Develop and Submit a Traffic Impact Fee

SUSTAINABILITY FEATURES

The Nexus Study will enhance operations and safety for all modes of transportation. The TIF will align improvements consistent with the City's 2040 General Plan, Complete Streets Strategic Initiative, Pedestrian and Bicycle Master Plan, Neighborhood Traffic Calming Program, and major regional improvements.

PUBLIC CONTACT

The Study includes a comprehensive outreach approach geared in part to addressing potential concerns from the development community, general public, and City leaders. On February 9, 2022, staff held a Stakeholder Meeting to introduce the proposed TIF and solicit feedback from the public. An article publicizing the event was published in The Stack and distributed to its subscribers. Additionally, a targeted email with information on how to attend the event was sent to a distribution list of 420 recipients who are involved in some way to Hayward's development process. The CIC meeting is the second of a series of meetings related to the TIF. The feedback received so far will also be presented to the Planning Commission on April 14, 2022 and introduced to Council for consideration of recommended approval on May 3, 2022.

NEXT STEPS

Planning Commission
City Council

April 14, 2022
May 3, 2022

Prepared by: Charmine Solla, Senior Transportation Engineer
Kathy Garcia, Deputy Director of Public Works

Recommended by: Alex Ameri, Director of Public Works

Approved by:



Kelly McAdoo, City Manager